IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No 16 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAKESH STEEL CORPORATION

Versus

APPLE ALLIED INDUSTRIES LTD.

Appearance:

1. COMPANY PETITION No. 16 of 2003

MR ANIP A GANDHI for Petitioner No. 1

NOTICE SERVED BY DS for Respondent No. 1

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 23/04/2003

ORAL JUDGEMENT

1. This petition has been filed by M/s. Rakesh Steel Corporation, Baroda under the provisions of Sections 433 and 434 of the Companies Act, 1956 [hereinafter referred to as the Act] praying that the respondent, M/s. Apple Allied Industries Limited be

wound up as the said Company is unable to pay its debts.

2. It is contended in the petition that the petitioner has served a statutory notice dated 8th August 2002 on the respondent Company under section 434 of the Act, calling upon the respondent Company to pay the outstanding dues of Rs.7,51,394/- by Registered Post Acknowledgment Due. From the xerox copy of the Acknowledgment Due produced on record, it appears that the said notice is duly received by the respondent Company. Inspite of receipt of the said notice, the respondent Company has neither replied to the notice nor paid the amount payable by it. In the circumstances, the present petition has been filed with a prayer that the respondent Company be ordered to be wound up as the Company is unable to pay its debts.

3. In this petition, notice returnable on 18th February 2003 was issued on 24th January 2003. In pursuance of the notice, neither any advocate has appeared to represent the case nor the Company has filed any reply.

4. In the circumstances, the petition was admitted on 4th March 2003 and an order with regard to advertisement was passed on the 11th March 2003.

5. It is stated by the learned advocate for the petitioner that in pursuance of the order with regard to admission of the petition and the date of final hearing of the petition, an advertisement had been duly published in the Indian Express, Vadodara Edition and Loksatta-Jansatta, Vadodara Edition and an affidavit to the said effect has already been filed in the Registry.

6. Even after publication of the notice, neither any advocate has appeared to represent the case nor the Company has filed any reply.

7. Looking to the facts stated hereinabove, it is clear that the respondent Company is unable to pay its debts as the Company has not paid the amount payable by it.

8. In the circumstances, the respondent Company is ordered to be wound up. The Official Liquidator attached to this High Court is appointed as an Official Liquidator for taking necessary proceedings for winding up of the Company. The Official Liquidator attached is directed to take possession of the assets of the respondent Company and he is also entrusted with all powers given to him under the provisions of the Act so as to do the needful

and to distribute its assets in accordance with law.

9. Till the official Liquidator takes charge of the affairs of the respondent-Company, the respondent Company is restrained in any manner dealing with, disposing of, part with possession or creating third party rights or interest of the asses of the Company.

10. This petition stands disposed of as allowed.

[RAVI R. TRIPATHI, J.]
mathew